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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/544,357	04/06/2000	Donald A Shockey	SRI1P028	8056

25696 7590 06/19/2002

OPPENHEIMER WOLFF & DONNELLY
P. O. BOX 10356
PALO ALTO, CA 94303

EXAMINER

JOHNSON, STEPHEN

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 06/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/544,357

Applicant(s)

SHOCKEY ET AL.

Examiner

Stephen M. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-12,14,17-19,22-27,38-41,44-46,48-74 and 76-80 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-12,14,17-19,22-27,38-41,44-46,48-74 and 76-80 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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1. Claims 1-4, 6-12, 14, 17-19, 22-27, 38-41, 44-46, 48-52, 69, 76, and 80 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The terms "light weight" and "low weight" in claims 1, 17, 38, 44, 69, 76, and 80 is a relative term which renders the claim indefinite. The terms "light weight" and "low weight" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The scope of the claim with regard to the encompassed weight of the fabric layer is uncertain and therefore indefinite.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 4, 6, 10-12, 14, 17-18, 22, 26-27, 38-41, 44-45, 51-55, 58-64, 67-74, 76, and 80 are rejected under 35 U.S.C. 102(b) as being anticipated by Meier et al..

Meier et al. disclose a ballistic barrier combination comprising :

- | | |
|-----------------------------------|-----------------|
| a) an outer shell, | 66 |
| b) at least one layer of fabric, | 46 or 54 or 38 |
| c) an inner panel, and | 38 (inner most) |
| d) a layer fire resistant fabric. | 54 |

4. Claims 1-2, 4, 6-7, 10-12, 17-18, 22-23, 26-27, 38-41, 44-45, 48, 51-56, 58-60, 62-65, 67-73, 76, and 80 are rejected under 35 U.S.C. 102(b) as being anticipated by Schade et al..

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Schade et al. disclose a ballistic barrier combination comprising :

- a) an outer shell, 22
- b) at least one layer of KEVLAR fabric, 19, 21 (inner most)
- c) an inner panel, and 16
- d) a layer fire resistant fabric. 19, 21 (inner most) or 25

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 8, 19, 24, 46, 49, and 77-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schade et al. in view of Pepin.

Schade et al. apply as previously recited. However, undisclosed is a fabric layer that is felt or a fabric layer that is polyethylene material. Pepin teaches a fabric layer that is felt (col. 3, lines 30-33) and a fabric layer that is polyethylene material (col. 3, lines 11-17). Applicant is substituting one material type of fabric layer for another in an analogous art setting as explicitly encouraged by the secondary reference (see Pepin, col. 3, lines 11-33). It would have been obvious to a person of ordinary skill at the time of the invention to apply the teachings of Pepin to the Schade et al. ballistic barrier and have a ballistic barrier whose fabric layer is made of a different material type.

7. Claims 9, 25, 50, 57, and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schade et al. in view of Dragone et al..

Schade et al. apply as previously recited. However, undisclosed is a fabric

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material that is polybenzoxazole. Dargone et al. teach a fabric material that is polybenzoxazole, col. 4, line 45. Applicant is substituting one material type for another in an analogous art setting. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Dragone et al. to the Schade et al. ballistic barrier and have a ballistic barrier whose fabric layer is made of a different material type.

8. Claims 1-2, 10-12, 14, 17-18, 26-27, 38-41, 44-45, 51-54, 58-64, 67-74, 76, and 80 are rejected under 35 U.S.C. 102(b) as being anticipated by Lea.

Lea discloses a ballistic barrier combination comprising :

- | | |
|-----------------------------------|----------|
| a) an outer shell, | 23 |
| b) at least one layer of fabric, | 10 or 14 |
| c) an inner panel, and | 24 |
| d) a layer fire resistant fabric. | 10 or 14 |

9. Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection. However, the double patenting rejection has been withdrawn in view of the terminal disclaimer filed on 3/25/2002.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

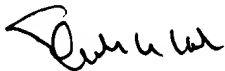
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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 703-306-4158. The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703-306-4198. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4177.



STEPHEN M. JOHNSON
PRIMARY EXAMINER

Stephen M. Johnson
Primary Examiner
Art Unit 3641

SMJ
June 14, 2002